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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
FRANK LOUIS SMEDILE, )  
 )  
Defendant. )

No. 3-06-70639 EDL

~~PROPOSED~~ ORDER AND STIPULATION  
WAIVING TIME UNDER RULE 5.1 AND  
EXCLUDING TIME FROM OCTOBER 11,  
2006 TO OCTOBER 24, 2006 FROM THE  
SPEEDY TRIAL ACT CALCULATION  
(18 U.S.C. § 3161(h)(8)(A))

The parties appeared before the Honorable Nandor J. Vadas on October 4, 2006 and October 11, 2006. With the agreement of the parties, and with the consent of the defendant, the Court enters this order (1) scheduling a status hearing date of October 24, 2006 at 9:30 a.m., before the Honorable Elizabeth D. Laporte; (2) documenting the defendant's waiver of time limits under Federal Rule of Criminal Procedure 5.1; and (3) documenting the exclusion of time under the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(A), from October 11, 2006 to October 24, 2006. The parties have agreed, and the Court finds and holds, as follows:

1. The defendant waived the time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1. Failure to grant the requested continuance would unreasonably deny both defense and government counsel reasonable time necessary for effective preparation, taking

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1 into account the need to review the universe of electronic evidence in the case prior to charging  
 2 the case and negotiating a possible disposition, and would deny the defendant continuity of  
 3 counsel.

4 2. Counsel for the defense believes that postponing the preliminary hearing is in his  
 5 client's best interest, and that it is not in his client's interest for the United States to indict the  
 6 case before October 24, 2006. The parties expect to discuss the possibility of a pre-indictment  
 7 resolution of the case.

8 3. The defendant agreed to an exclusion of time under the Speedy Trial Act. Failure to  
 9 grant the requested continuance would unreasonably deny both government and defense counsel  
 10 reasonable time necessary for effective preparation, taking into account the exercise of due  
 11 diligence, and would deny the defendant and the government continuity of counsel.

12 4. Given these circumstances, the Court found that the ends of justice served by  
 13 excluding the period from October 11, 2006 to October 24, 2006, outweigh the best interest of  
 14 the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

15 5. Accordingly, and with the consent of the defendant, the Court ordered that the period  
 16 from October 11, 2006 to October 24, 2006, be excluded from Speedy Trial Act calculations  
 17 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

18 4. The Court scheduled a new status date of October 24, 2006, at 9:30 a.m., before the  
 19 Honorable Elizabeth D. Laporte. The preliminary hearing/arraignment date will be scheduled at  
 20 that time.

21 IT IS SO STIPULATED.

22  
 23 DATED: October 25, 2006

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 /S/  
 TRACIE L. BROWN  
 Assistant United States Attorney

24  
 25  
 26 DATED: October 20, 2006

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 /S/  
 DANIEL BLANK  
 Attorney for FRANK LOUIS SMEDILE

1 IT IS SO ORDERED.

2  
3 DATED: October 30, 2006

